

Remarks

In the present RCE, three claims (4, 15, and 16) are amended; and four claims (28-31) are newly added. No new matter is entered. Claims 4-26 and 28-31 are presented for examination.

I. Claim Rejections: 35 USC § 112

Claims 1-14 and 15 are rejected under 35 USC 112, second paragraph, as being indefinite. In light of the amendments, Applicant respectfully argues that these rejections are moot.

II. Claim Rejections: 35 USC § 103

Claims 4 – 26 are rejected under 35 USC § 103 as being unpatentable over USPN 2001/0009005 (Goodin) in view of USPN 2002/0111892 (Sharp). This rejection is traversed.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art cited must teach or suggest all the claim limitations. *See* M.P.E.P. § 2143. For at least the following reasons, Applicant asserts that the rejection does not satisfy these criteria.

Sharp “relates to a marketplace for the buying and selling of freight transportation services” ([0004]). In other words, Sharp “enables freight transportation to be bought and sold through catalog rates and auctions” ([0006]). In short, Sharp teaches a site for auctioning shipping services, not goods.

By contrast, Goodin “is directed to a method of auctioning products on-line where participants use computer terminals to access a computer site and participate” ([0006]). In short, Goodin teaches a site for auctioning goods, not shipping services.

No suggestion or motivation exists to combine the teachings of Sharp and the teachings of Goodin into the same internet exchange portal. The Examiner is performing an improper piecemeal construction that uses hindsight to arrive at the claim elements. In

other words, the Examiner is using knowledge of Applicant's claims as a roadmap to pick, choose, and combine unrelated teachings from Sharp and Goodin. No motivation or suggestion, however, exists to combine these teachings. One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988).

The background portion of Applicant's specification discusses numerous problems associated with prior internet exchange portals, such as those taught in Sharp and Goodin. Specifically, these separate auctions are time consuming and laborious for buyers and sellers. Further, as noted in Applicant's background, such systems are not advantageous for the exchange portal either since it may not be timely paid for the auctions.

In order to remedy the shortcomings of the prior exchange portals (such as Sharp and Goodin), exemplary embodiments of Applicant's invention include aligning logistical flow with a **single** internet exchange portal. Applicant respectfully asks the Examiner to read the Summary section of the specification for numerous advantages. By way of example, claim 4 recites two different auctions on the **same** internet exchange portal. The first auction facilitates a sale of a good, and a second auction solicits bids for shipping services for the good. Unlike the teachings of Sharp and Goodin, the auctions for selling and shipping the goods are on the same internet exchange portal in the independent claims.

For at least these reasons, Applicant respectfully argues that a prima facie case of obviousness has not been established.

CONCLUSION

In view of the above, Applicant believes that all pending claims are in condition for allowance. Allowance of these claims is respectfully requested.

Any inquiry regarding this Amendment and Response should be directed to Philip S. Lyren at Telephone No. 832-236-5529. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,

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